

AN ACT

ENTITLED, An Act to revise certain provisions related to hunting in public rights-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 41-9-1.1 be amended to read as follows:

41-9-1.1. Except for controlled access facilities as defined in § 31-8-1, interstate highways, unimproved section lines not commonly used as public rights-of-way, and highways within parks or recreation areas or within or adjoining public shooting areas or game refuges posted for restriction of an applicable use as hereinafter set forth by the Department of Game, Fish and Parks, § 41-9-1 does not apply to fishing, trapping, or hunting on highways or other public rights-of-way within this state that meet the requirements of § 41-9-1.3. For purposes of this section, hunting on highways or other public rights-of-way includes:

- (1) The shooting at or taking by legal methods of small game, except mourning dove, that are located within the boundaries of the highway or public right-of-way;
- (2) The shooting at or taking by legal methods of small game, except mourning dove, that are in flight over private land if the small game has either originated from or has taken flight from the highway or public right-of-way or if the small game is in the process of flying over the highway or public right-of-way.

If subdivision (2) of this section is declared by an advisory opinion or adjudication of the South Dakota Supreme Court to be a taking of private property requiring compensation, subdivision (2) is void.

No person, except the adjoining landowner or any person receiving written permission from the adjoining landowner, may use such highways or rights-of-way for the purposes of hunting defined in this title within a six hundred sixty-foot safety zone surrounding an occupied dwelling, a church, schoolhouse, or livestock. Neither the person discharging a firearm at small game nor the small game

being shot at may be within the safety zone. No person, except the adjoining landowner or any person receiving written permission from the adjoining landowner, may use such highways or rights-of-way for the purpose of trapping within six hundred sixty feet of an occupied dwelling, church, or schoolhouse. A violation of this section is a Class 2 misdemeanor. If any person is convicted of knowingly discharging a firearm within six hundred sixty feet of any occupied dwelling, church, or schoolhouse for which such distance has been clearly and accurately marked and posted, the court shall, in addition to any other penalty, revoke the person's hunting privileges for a period of one year from the date of conviction.

Section 2. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as follows:

In order to protect the public safety, it is the intent of the Legislature that hunting from highways or other public rights-of-way be accomplished without the use of motorized vehicles. Therefore, the following restrictions apply to such hunting:

- (1) No person hunting small game from any highway or other public right-of-way pursuant to § 41-9-1.1 may discharge a firearm at any small game animal unless the motor vehicle by which the person has been transported to the hunting location has, to the maximum extent practical, been parked off the main traveled portion of the highway or public right-of-way in a manner that does not create an unreasonable risk of injury or damage to other persons or property using the highway or public right-of-way;
- (2) If the person who discharges the firearm is more than fifty yards from the vehicle, the doors on the side of the vehicle nearest the roadway shall be closed, but the engine may be running; and
- (3) If the person who discharges the firearm is less than fifty yards from the vehicle, all of the vehicle doors shall be closed and the engine shall be turned off.

A violation of this section is a Class 2 misdemeanor.

Section 3. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as follows:

Any person who, while hunting a road right-of-way, negligently endangers another person, or puts that person in fear of imminent serious bodily harm, is guilty of a Class 1 misdemeanor.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1163

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1163

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State